

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent Gilbert Otero is the District Attorney for the County of Imperial. He assumed office on January 1, 1995, and has served continuously since. As District Attorney, Respondent is required by sections 87200 and 87203 of the Political Reform Act (the “Act”)<sup>1</sup> to file an annual statement of economic interests each year, disclosing the reportable economic interests that he held during the preceding calendar year.

In this matter, Respondent failed to timely file an annual statement of economic interests for 2001, by April 2, 2002.

For the purposes of this Stipulation, Respondent’s violation of the Act is stated as follows:

As District Attorney for the County of Imperial, Respondent Gilbert Otero failed to file a 2001 annual statement of economic interests by the April 2, 2002 due date, in violation of section 87203 of the Government Code.

### **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in Section 81002, subdivision (c), is to ensure that the assets and income of public officials, which may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided.

In furtherance of this purpose, Section 87203 requires each person who holds an office listed in Section 87200 to file, at a time specified in the Commission’s regulations, an annual statement of economic interests disclosing his or her reportable investments, interests in real property and sources of income since the previous statement was filed. Offices listed in Section 87200 include district attorneys.

Regulation 18723, subdivision (b)(2) provides that the deadline for filing an annual statement of economic interests for a district attorney is April 1<sup>st</sup> of each year (or the next business day after April 1<sup>st</sup>, if April 1<sup>st</sup> falls on a Saturday, Sunday or official holiday). Under Section 87500, subdivision (e), a district attorney must file his or her statements of economic interests with the county clerk, who shall retain a copy of the statement, and forward the original to the Fair Political Practices Commission (the “Commission”), which is the filing officer for district attorneys.

### **SUMMARY OF THE FACTS**

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<sup>1</sup> The Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Respondent Gilbert Otero assumed office as District Attorney for the County of Imperial on January 1, 1995. As District Attorney, Respondent is required to file an annual statement of economic interests for each year that he remains in office, disclosing reportable economic interests he held during the preceding calendar year.

Respondent was required to file an annual statement of economic interests, disclosing reportable economic interests held during the 2001 calendar year on or before April 2, 2002, because April 1, 2002 fell on a holiday that year.

Respondent failed to file a 2001 annual statement of economic interests by the April 2, 2002 due date, in violation of Section 87203.

On July 2, 2002, Bonita Kwong of the SEI Unit, sent a letter to Respondent, informing him that his 2001 annual statement of economic interests was past due, and asking him to file the statement within 30 days.

On August 5, 2002, Ms. Kwong sent a second letter to Respondent, advising him that his 2001 annual statement remained past due, and asking that he file the delinquent statement immediately. The letter further advised Respondent that the matter would be referred to the Commission's Enforcement Division, if the delinquent statement was not received within ten days. In spite of the notices from Ms. Kwong, Respondent failed to file a 2001 annual statement, and the matter was then referred to the Enforcement Division.

On September 30, 2002, Mary Ann Kvasager, the SEI Coordinator for the Enforcement Division, attempted to contact Respondent by telephone, leaving him a message on his voice mail that his 2001 annual statement of economic interests was past due, and instructing him to file the statement immediately.

Respondent filed his 2001 annual statement of economic interests on October 3, 2002.

## **CONCLUSION**

This matter consists of one count of violating Section 87203, which carries a maximum administrative penalty of Five Thousand Dollars (\$5,000). Under the SEI Expedited Procedures adopted by the Commission in July 1999, the approved administrative penalty for an individual who files a delinquent SEI within 30 days after being contacted by the Enforcement Division SEI Coordinator is in the range of \$200 to \$300 for each violation. Respondent's prompt filing of his delinquent statement the day after being contacted by an Enforcement Division SEI Coordinator, and his cooperation in reaching an early resolution of this matter, are factors that warrant a penalty at the lower end of the range.

Therefore, the agreed upon administrative penalty of Two Hundred Dollars (\$200) is appropriate.